

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN KATHLEEN GALVIN-HALCRO**, on March 4, 2005 at 3:10 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Kathleen Galvin-Halcro, Chairman (D)
Rep. Joan Andersen, Vice Chairman (R)
Rep. Gary Branae, Vice Chairman (D)
Rep. Edward B. Butcher (R)
Rep. Margaret H. Campbell (D)
Rep. Tim Dowell (D)
Rep. Wanda Grinde (D)
Rep. Roger Koopman (R)
Rep. Bob Lake (R)
Rep. Joe McKenney (R)
Rep. Holly Raser (D)
Rep. Scott Sales (R)
Rep. Jon Sonju (R)
Rep. Dan Villa (D)
Rep. John Ward (R)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Present: Chris Lohse, Legislative Branch
Eddie McClure, Legislative Branch
Nina Roatch-Barfuss, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 170, 2/23/2005; SB 57, 2/23/2005
Executive Action: SB 170

HEARING ON SB 57**Sponsor:** SENATOR RICK LAIBLE, SD 44, Victor**Opening Statement by Sponsor:**

SEN. LAIBLE opened the hearing on **SB 57**, which was an extension of SB 394 presented in 2001. The intent of that bill was to allow local school districts to transfer students from their Montana resident school district to a job corps and still retain the Average Number Belonging (ANB) funding for the student. There was an unintended consequence to that bill. Some school districts that have a job corps in their district have used the bill for students that are 18 years or older. The schools have allowed out-of-state students at the job corps to use the job corps as their place of residence because they are of majority age. Therefore, the Montana taxpayers are paying ANB for out-of-state students. The intent of **SB 57** is to disallow a student attending a job corps from claiming the job corps program's facility as the student's residence.

Proponents' Testimony:

Madalyn Quinlan, Office of Public Instruction (OPI), rose in support of the bill. The intent of the bill was that a student who enrolled in a job corps program would be the responsibility of the school of residence. That school would see to it that the student met the district graduation requirements and the school had the right to claim ANB funding for the student. She felt the present bill clarified the intent of the original legislation.

Lance Melton, Montana School Boards Association (MSBA) stood in support of the bill. He informed the committee that they might want to write amendments to clarify another section of law that says that students under the Individual Disability Education Act (IDEA) reside where they are in school. MSBA made the suggestion to the Senate Education Committee but the committee did not see fit to amend the bill. He believed it to be an issue that the committee needed to look into. MSBA did not want a situation where a school district is saddled with the full obligation of paying for the special education services of a student. The organization supported the concept of the bill.

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Opponents' Testimony: None**Informational Testimony:** None

Questions from Committee Members and Responses:

REP. CAMPBELL inquired of the SPONSOR information about a job corps situation. **SEN. LAIBLE** informed her that when a student is not scholastically motivated and having trouble in a conventional school, the student can transfer to a job corps. The student can learn a skill and still be under the responsibility of the home school district. The home district would receive ANB funding and be responsible for the oversight of the student. The student would be eligible to graduate with his/her class. He assumed the student would be a day-student and would not live on the campus. Students from all around the state are eligible to attend the program. The student would not have to be a resident in the job corps area. He informed her that the federal government picks up the cost of the job corps and at the same time the local school does not lose the ANB funding.

REP. VILLA asked the SPONSOR if he would be open to a friendly amendment. **SEN. LAIBLE** replied that he could not answer the question because he had not seen the amendment. He informed him that he would feel uncomfortable taking an amendment for the bill because it came through the Senate so smoothly and he would hate to jeopardize the bill. **REP. VILLA** informed the SPONSOR that he could see some potential problems with the IDEA program. He wondered if he had the amendments drafted, if the SPONSOR would be willing to look at them. **SEN. LAIBLE** informed him he would be open to looking at his amendments. He declared he had no documents in his file that showed an amendment had ever been brought forward on the bill.

REP. KOOPMAN inquired information from the SPONSOR. He wondered if he understood the law and the bill. It was his understanding that a school would transfer a student to the job corps center and no longer be involved with the student in anyway, but still claim ANB money for the student. **SEN. LAIBLE** assured him that if it was an in-state student, he was correct. **REP. KOOPMAN** asked the SPONSOR to explain how it was being abused. **SEN. LAIBLE** related that when a student is 18, he/she can claim residence at the job corps and the local school district can then claim the out-of-state student for ANB purposes. There are presently 29 out-of-state students that Montana taxpayers are paying ANB funding for.

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REP. SALES asked the SPONSOR if a student was taken from a school, such as Havre High School, and sent to a job corps, would the student attend classes at Havre High School and the job corps during the same time period. **SEN. LAIBLE** said the student would be attending one or the other school at any one time.

REP. GALVIN-HALCRO sought information from Madalyn Quinlan. She wanted Ms. Quinlan to expand on **REP. SALES** question. **Ms. Quinlan** said it was important to point out the language in current law. If a Havre student is sent to a job corps, he is still headed toward graduation as part of the Havre school system. The Havre School District is overseeing the classes the student is taking and making sure that the classes apply towards graduation.

Closing by Sponsor:

SEN. LAIBLE informed the committee that if one thinks about it, the State uses federal funds in many programs. The bill is not about the funding but about giving Montana students a second chance and at the same time not penalizing the local school. He asked **REP. ANDERSEN** to carry the bill in the house.

HEARING ON SB 170

Sponsor: **SENATOR JEFF MANGAN, SD 12, Great Falls**

Opening Statement by Sponsor:

SEN. MANGAN opened the hearing on **SB 170** which would allow flexibility in the school calendar and pupil-instruction-related days (PIRD). The bill is a suggestion from the Public School Renewal Commission study. The bill would allow a school district to conduct at least 180 days during the school fiscal year or measure the school year by a minimum number of aggregate hours. Currently there are more requirements and standards placed on the school districts and teachers, particularly for professional development. The bill would allow squeezing more hours and minutes into a day. If a school wishes to operate by the 180-day system, it still can, but if a district wants to look at using hours it would be allowed to do that. He pointed out that the bill would allow for a "free" or "snow" day. There are times when the weather or other circumstances cause a school to close for a day, and the bill would allow one day that would not have to be made up by the school and students. He did not think local districts would abuse the day.

Proponents' Testimony:

Erik Burke, Montana Education Association-Montana Federation of Teachers (MEA-MFT) rose in support of the bill. **Mr. Burke** informed the committee that the bill concept had come before several previous sessions and MEA-MFT had opposed the idea. He believed this bill was careful to point out that collective bargaining units would have the right to negotiate changes in the

school schedule that are a result of the bill. Employees and their salaries are directly affected by the number of days taught as well as the number of hours. MEA-MFT believed teachers should have a clear and substantial role in dictating and determining the school policy on time. The bill also addressed a problem seen in Montana schools and that was not having the adequate time or flexibility in the school calendar to do the types of things that teachers know are necessary to get the job done. There are a lot of new obstacles and hurdles that Montana teachers are having to cross. There is not enough time in the school day to get everything done.

He spoke to the idea of a "snow" day. MEA-MFT did not believe the amendment put in the bill in the Senate was necessary, given the flexibility that the bill provides. If a district misses a day due to the weather, instead of scheduling a day of class under present law, what they could do is schedule two minutes on top of every additional day or ten minutes if needed. The school would then meet the standard required. MEA-MFT would encourage the committee to remove the amendment.

Lance Melton, Montana School Boards Association (MSBA), rose in support of the bill. He presented written testimony.

EXHIBIT (edh48a01)

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{Tape: 1; Side: B}

Madalyn Quinlan, OPI, rose in support of the bill and informed the committee that minimum aggregate hours refers to "people contact time," so it is hours of people instruction. It does not include lunch time or periods of unstructured recess. If a school does not meet the minimum aggregate hours, OPI will get the reason why as there are penalties in school law and in the bill for not meeting the minimum hours. Under current law, if a school has a unforeseen emergency, it must make a reasonable effort to make up the lost time. If the school doesn't make the time up in what is defined as a reasonable amount of time, there is a penalty for that in terms of the funding. If a school district doesn't meet the minimum aggregate hours, not because of an emergency, then the penalty is twice as high. She wished to speak to the history of emergency time as written in law. Legislation has been developed that says when there is an emergency, the board of trustees or school administration meets and declare an emergency and they must make an effort to make up the days lost. She believed the amendment about the "snow" day is problematic. Schools could easily plan for a "snow" day.

Darrell Rud, School Administrators of Montana, Montana Taxpayers Association and Montana Rural Education Association, rose in

support of the bill. He testified that in developing a school calendar when one has to deal with days versus hours, he would find hours much easier to work with. The bill would allow a calendar to be developed that truly reflects the needs of the school district and community. He saw great benefits for providing quality professional development. Having time for quality training and instruction would be invaluable.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. SONJU required information from Sen. Mangan. He was pondering whether presently local school boards can use aggregate hours instead of 180 days. **SEN. MANGAN** said, "No."

REP. SONJU questioned Erik Burke. He needed to know how educators are paid. He wondered if they were paid by the hour, or the day, or how they were paid. **Mr. Burke** informed him that it was probably both. There are educators in the state who are paid on an hourly basis. Most professional staff are paid on an annual contract basis. **REP. SONJU** needed to clarify what would happen if the bill cut the number of days down, would the teachers lose pay. **Mr. Burke** informed him that changes would be bargained and if the district was interested in reducing pay, it would have to be negotiated at the local level. **REP. SONJU** asked to see where that information was found in the bill. **Mr. Burke** pointed it out to him on Page 5, Section 4, Sub-section 2.

REP. ANDERSEN requested information from Lance Melton. She had visited with a school superintendent in her district and the subject of the bill had come up. She wondered about the days when a high school basketball team is playing at a divisional tournament and school attendance is very poor. Sometimes the schools will be in session until noon and then they dismiss for the afternoon. She believed they could count it as a day of instruction and she wondered if the bill would provide a few more hours of actual instruction time. **Mr. Melton** informed her that at present the school must make up the hours that are cut out of the afternoon. They need to meet the day and the hour requirements. He believed the bill would result in a greater focus on learning activities than what is done presently.

REP. GALVIN-HALCRO questioned the SPONSOR about Page 3, Line 17. The information included the passing time between classes as part of minimum aggregate hours. She wished to know why it was included and wondered if there would be a problem with deleting

that time. **SEN. MANGAN** informed her that it was in the bill due to an amendment from OPI. He believed the House Education Committee could make changes, if they wished to do so. **REP.**

GALVIN-HALCRO also requested an explanation about Page 6, Section 4, Sub-section 6. She wondered if there was stronger language that could be used. The word "solicit" did not appear strong enough. She pondered that the word should be "require."

SEN. MANGAN had no problem with which word was in the bill.

REP. GALVIN-HALCRO referred her question about passing time between class to Madalyn Quinlan. **Ms. Quinlan** responded that she would have a problem with deleting that time as the definition was the one used by the Board of Public Education and used currently to evaluate pupil contact time. One aggregate hour is defined as the instruction time plus the passing time.

Closing by Sponsor:

SEN. MANGAN believed under the proposed minimum aggregate hour system, the passing time would not be as difficult to handle. The bill is part of the definition of quality education which has been the goal of the legislative session. The bill offers more local control to communities. He asked **REP. RASER** to carry the bill in the house.

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EXECUTIVE ACTION ON SB 170

Motion: **REP. WINDHAM** moved that SB 170 BE CONCURRED IN.

Discussion:

REP. GALVIN-HALCRO questioned Madalyn Quinlan about the word "solicit" on Page 6, Line 4. She was wondering if it could be changed to "require." **Ms. Quinlan** did not see a problem in making the word change.

Motion: **REP. GALVIN HALCRO** moved a CONCEPTUAL AMENDMENT TO CHANGE THE WORDING ON PAGE 6, LINE 4, AND LINE 6 FROM "SOLICIT" TO "REQUIRE."

Discussion:

REP. GRINDE had a question about defining solicit and require. She felt one can't require information from the public. One can solicit it and hope to get it.

REP. GALVIN-HALCRO informed her that when public input is required, a meeting is scheduled and advertised so that the public is aware of what changes the district plans to make and if they are interested, they can attend the meeting.

REP. GRINDE claimed that was the definition of solicit. She felt requiring the input meant the public would be forced, if possible, to come to the meeting.

REP. RASER felt that using the word "require" in the instances would be inappropriate. The district can't make the employees participate. She felt what the CHAIRPERSON was really wanting to do, was require the trustees to seek the information.

REP. DOWELL said that he read it as written, "...the trustees shall: solicit..." and that means the trustees "must ask." The wording was acceptable to him.

Without objection, REP. GALVIN-HALCRO withdrew her conceptual amendment to SB 170.

Motion: REP. VILLA moved a CONCEPTUAL AMENDMENT TO REMOVE THE ONE DAY EMERGENCY STATEMENT ON PAGE 15, LINES 5-7.

Discussion:

REP. DOWELL spoke in opposition to the amendment. He believed the emergency day would benefit schools. He believed when a school had to take an emergency day, it was very difficult to make the day up. At the end of the year parents have made plans that they don't want interrupted by an extra day of school.

REP. WINDHAM reported that she didn't like the idea of missing school. She felt there were ways to make up the time without adding a day to the school calendar. Minutes could be added to the remaining school days to make up for the time lost.

REP. DOWELL related that her idea would work in some districts but where there are several schools with bus routes involved, it could be difficult. Buses run very tight schedules.

REP. RASER spoke in favor of the amendment. She believed the hour concept in the bill would allow a school plenty of leeway to solve time lost. She believed teachers need the time with the students.

REP. CAMPBELL spoke in opposition to the amendment. She spoke about May storms causing problems and the school would not have time to make up a day lost unless it added a day to the calendar.

REP. WARD rose in support of the amendment.

REP. GRINDE wanted the language left in the bill. It was a matter of flexibility.

REP. GALVIN-HALCRO spoke against the amendment. In a large district, there are hundreds of buses to schedule and making up time would make it difficult for bus schedules.

REP. VILLA believed his amendment provided more instructional time for the students within current budgets and he urged support for his amendment.

Vote: Motion on VILLA CONCEPTUAL AMENDMENT TO SB 170 failed 8-8 by roll call vote with **REP. ANDERSEN, REP. BUTCHER, REP. LAKE, REP. MCKENNEY, REP. RASER, REP. VILLA, REP. WINDHAM** and **REP. WARD** voting aye. **REP. BRANAE** and **REP. LAKE** voted by proxy.

Vote: Motion that SB 170 BE CONCURRED IN passed 14-2 by roll call vote with **REP. WARD** and **REP. WINDHAM** voting no. **REP. LAKE** voted by proxy.

ADJOURNMENT

Adjournment: 4:15 P.M.

REP. KATHLEEN GALVIN-HALCRO, Chairman

NINA ROATCH-BARFUSS, Secretary

KG/nb

Additional Exhibits:

EXHIBIT ([edh48aad0.PDF](#))